

REMARKS

Claims 1-44 are all the claims pending in the application. Claims 1, 3, 4, 7, 16, 30, 42 and 43 are being amended. Claims 2 and 31 are being canceled.

I. Claim Amendments

The Applicant herein amends claims 1 and 30 to incorporate the elements of corresponding dependent claims 2 and 31. Claims 2 and 31 are therefore being canceled.

Claim 42 is being amended to clarify that the “server based greeting system” is a “server based voicemail greeting system,” and that the “greetings” are “voicemail greetings.”

Claims 3, 4, 7, 16 and 43 are being amended to correct dependencies, typographical errors and superfluous claim language.

II. Claim Rejections – 35 USC §112

The Examiner rejected claim 18 under 35 USC §112, first paragraph, as allegedly failing to comply with the enablement requirement, and specifically that it is a Single Means Claim. The Examiner stated that “Line 2 recited ‘any one of a plurality of states’ which can cover all known states in the world and therefore is not supported or enabled by the specification.”

The Applicant respectfully disagrees, and submits that the phrase “plurality of states” is clearly defined in the Specification and sufficiently limiting so as to be enabled by the Specification, as required under 35 USC §112. The Applicant refers the Examiner to the Summary of the Invention section of the Specification at p. 2, lines 3-5, which reads: “The user client is able to assume a *plurality of different states*, the states being modes, settings, menu

selections or the like made by the user at the communication device.” The Applicant submits that “plurality of states” is clearly defined as modes, settings, menu selections or the like that are selected by the user at the communication device. In the Description of the Preferred Embodiments section of the Specification at p. 8, numerous non-limiting examples of the various modes to be selected by the user at the handset are provided, and references to software systems supporting these modes, which are well known in the art, are provided.

Therefore, the Applicant submits that the term “any one of a plurality of states” in claim 18 is clearly defined and enabled in the Specification, and would not be read to cover “all known states in the world.” The Applicant respectfully requests that the rejection under 35 USC §112 be withdrawn.

III. Claim Rejections – 35 USC §102

The Examiner rejected claims 1-44 under 35 USC §102(b) as allegedly being anticipated by Schwartz, US Pat. No. 6,985,924 (hereinafter “Schwartz”).

Claim 1

The Applicant herein amends claim 1 to incorporate the elements of claim 2, “*wherein said remotely located media based network service comprises a voicemail system.*” Claim 1 (emphasis added).

The Applicant submits that Schwartz does not disclose each and every element of the amended claim 1, as Schwartz fails to disclose where the remotely located media based network service comprises a voicemail system. The Examiner cites to Schwartz, col. 4, lines 43-61 and

reference D1 in Fig. 4 as disclosing the element of a voicemail system, but these cited sections of Schwartz, and Schwartz generally, only describes the use of an *Interactive Voice Response* system, or “IVR.” *Schwartz*, col. 4, lines 53-61 An IVR system, as is generally known in the art, is not a voicemail system which presents a recorded voice greeting and then permits a party listening to the greeting to record a voice message. Instead, an IVR system is a phone technology that detects voice tones during a phone call. An IVR is used to interact with a caller by listening for voice tones from the caller and then prompting the caller for further interaction, as with a menu-based telephone customer service system.

The Examiner also cites to Fig. 4, element D1, as disclosing the use of a voicemail system in Schwartz. However, the graphical user interface depicted in Fig. 4, along with the corresponding description in col. 7, lines 49-62, actually emphasize that the mediation system in Schwartz is *not* a voicemail system. Schwartz states that “the mediation subscriber may designate a default action to be performed by the mediation system in instances when a follow-up action for a particular communication is not provided by the mediation subscriber...” *Schwartz*, col. 7, lines 49-52. One of those actions, as listed in element D1, is for the mediation system to forward the mediated party (calling party) to a “remote voice mail,” indicating that the voicemail system is separate from the mediation system. Therefore, it is clear that the mediation system of Schwartz is not a voicemail system, unlike that described in the claimed invention embodied in claim 1.

For at least these reasons, the Applicant submits that Schwartz does not anticipate claim 1 under 35 USC §102(b), as Schwartz fails to disclose a voicemail system.

Furthermore, the Applicant submits that claims 3-17 are allowable at least based on their dependency to claim 1. The Applicant respectfully requests that the rejection of claims 3-17 under 35 USC §102(b) also be withdrawn.

Claim 3

The Applicant also submits that claim 3 is not anticipated by Schwartz, as Schwartz fails to disclose the use of a video-based system. The Examiner cites to col. 5, lines 59-64 and col. 6, lines 15-20, of Schwartz. Neither sections, however, describe or discuss the use of video or a video-based mediation system in any sense. Schwartz, at col. 6, lines 15-20, only describes the “visual display,” or graphical user interface that a user views while interacting with the mediation system, as represented by Figure 3 of Schwartz. It is readily apparent that Fig. 3 does not contain or depict any video, nor is the use of video described in col. 6 or anywhere else in Schwartz.

Therefore, the Applicant submits that Schwartz does not anticipate claim 3 under 35 USC §102(b), as Schwartz fails to disclose a video-based system.

Claim 4

The Applicant submits that Schwartz also fails to anticipate the elements of claim 4, as Schwartz does not disclose the use of prerecorded greetings which are selected based on the state of the user client and then played back as a voicemail reply from the voicemail system to the calling party. The Examiner cites to Fig. 2 generally and E9 of Fig. 14, as well as col. 7, lines 3-49 to support the rejection. As the Examiner did not point to anything specific in Figure 2 as teaching the elements of claim 4, the Applicant cannot identify anything in Figure 2 that depicts

or discloses the elements of claim 4, as Figure 2 fails to illustrate any system of selecting prerecorded greetings or causing the greeting to be played as a voicemail reply from the voicemail system to the calling party. Similarly, element E9 of Figure 14 corresponds to a “ninth interaction event” where a user changes his or her availability status, as described in col. 18, lines 30-38. Again, there is no mention of the elements of claim 4 of selecting a prerecorded greeting that is played back as a voicemail reply. Finally, col. 7, lines 3-49 generally describes setting a user’s availability and creating a policy of the type of response that will reply to a particular potential calling party (mediated party). The Applicant cannot find, however, any discussion of playing a selected greeting back as a *voicemail reply* from a *voicemail system* to a calling party. The Applicant notes that Schwartz discusses designating and setting up a desired greeting, but there is no description of the greeting being used as a voicemail greeting or sending the greeting as a voicemail reply using a voicemail system. The Applicant further notes, as discussed above, that Figure 4 illustrates a graphical user interface where a user creating a policy can select “Forward to Remote Voice Mail” as an option for handling a call. This illustration, however, clearly illustrates that the mediation system of Schwartz is not a voicemail system, but instead forwards its instructions *to* a voicemail system.

Schwartz makes no mention of a voicemail system in the detailed description or anywhere in the patent apart from the illustration in Figure 4, which the Applicant submits is clear evidence that Schwartz does not disclose a voicemail system, unlike the invention embodied in the current claims.

Therefore, for at least the reasons stated above, the Applicant submits that Schwartz does not describe the elements of claim 4, and respectfully requests that the rejection under 35 USC §102(b) be withdrawn.

Claim 18

The Applicant submits that Schwartz also fails to teach the elements of claim 18 for the same reasons stated above with regard to claim 4, as Schwartz fails to describe a communication device that communicates with a voicemail system, and furthermore fails to describe communicating “so as to apply settings to said voicemail system.”

The Examiner cites to Figure 2 as a voicemail system, but Schwartz does not describe Figure 2 as a voicemail system at any point in the reference. At most, Schwartz describes the use of an interactive voice response system, or IVR within the voice network 24 of Figure 2. However, as discussed above, an IVR is distinct from a voicemail system in many ways, and the two have wholly different functions and purposes.

As the mediation system of Schwartz is not a voicemail system, Schwartz further fails to disclose where the communication device applies settings to a voicemail system.

For at least the reasons stated above, the Applicant submits that claim 18 is allowable over Schwartz, and respectfully requests that the rejection under 35 USC §102(b) be withdrawn.

The Applicant additionally submits that claims 19-29 are also allowable in view of their dependency on claim 18, and the Applicant respectfully requests that their rejection under 35 USC §102(b) be withdrawn.

Claim 30

The Applicant amends claim 30 to further describe where the selected content is a voicemail greeting. The Applicant submits that Schwartz fails to disclose the use of a voicemail system and therefore the lack of a voicemail greeting, as previously discussed in detail. Therefore, the Applicant submits that claim 30 is allowable over Schwartz, and respectfully requests that the rejection under 35 USC §102(b) be withdrawn.

The Applicant additionally submits that claims 32-36 are also allowable in view of their dependency on claim 30, and the Applicant respectfully requests that their rejection under 35 USC §102(b) be withdrawn.

Claim 37

The Applicant submits that Schwartz also fails to disclose the elements of claim 37, and specifically that of using a media channel and a data channel to receive media content and data content related to the media content. The Examiner cites to col. 4, lines 22-60, which does not describe anything related to the use of separate channels for providing remote control to a server-based subscriber service.

The Examiner also cites to Fig. 3 and element E9 of Figure 14, briefly explaining that the “display options is media content that *the data is selected from.*” *Office Action*, p. 9 (emphasis added). However, as described in claim 37, the data is used to select *from the media content* a content item for use in the subscriber service. It is not the data that is being selected but a content item, such as, for example, a greeting that is being selected.

Therefore, the Applicant submits that claim 37 is allowable over Schwartz, and respectfully requests that the rejection under 35 USC §102(b) be withdrawn.

Claim 39

The Applicant submits that Schwartz also fails to disclose the elements of claim 39, as Schwartz specifically fails to describe using “a memory for storing a plurality of greetings associated with a given user handset,” as described in claim 39. The Examiner cites only to element 32 of Figure 2, which simply describes an “information storage device,” but fails to describe anything along the lines of what it is used for. Even in the context of the description of the information storage device in Schwartz, it is only briefly mentioned at col. 5, lines 18-20, without any explanation of its purpose.

Therefore, the Applicant submits that claim 39 is allowable over Schwartz, and respectfully requests that the rejection under 35 USC §102(b) be withdrawn.

Claims 40

The Applicant submits that Schwartz fails to disclose the subject matter of claim 40, as Schwartz does not mention the ability of its mediation system to “accept a greeting presently being recorded at said handset as said current message,” as stated in claim 40. The Examiner cites first to element 106 of Figure 4, but this illustration of selecting a greeting does not provide the ability to record a greeting at the same time that the calling party (mediated party) is calling. Schwartz describes setting up a greeting only in the context of the setup procedures for a policy, as illustrated in Figure 4 and described in col. 7, lines 23-30.

The Examiner further cites to col. 8, lines 49-59, which only describes the ability to perform mediation operations while a caller is calling. However, Schwartz fails to specify where any of the mediation operations include recording a greeting while the caller is calling.

Finally, the Examiner cites to col. 14, lines 60-67 and col. 15, lines 30-42, which describes an example of a caller Richard attempting to reach a subscriber David. While the example describes numerous messages presented to Richard from David, it is clear from the example that none of the messages are being presently recorded by David for playback to Richard. In fact, Schwartz describes throughout the reference that the intended purpose of the invention is to eliminate the need for the subscriber to communicate vocally in order to respond to a calling party. Therefore, Schwartz actually teaches away from the subject matter described in claim 40, as Schwartz seeks to eliminate vocal interaction by the subscriber.

Therefore, the Applicant submits that claim 40 is allowable over Schwartz, and respectfully requests that the rejection under 35 USC §102(b) be withdrawn.

Claim 41

The Applicant refers the Examiner to the arguments presented above with regard to claim 40, and submits that claim 41 is allowable for at least the same reasons stated above. Specifically, Schwartz fails to disclose allowing a realtime recording to be played as a voicemail greeting to an incoming call, as Schwartz requires the subscriber to set up messages in advance, and the messages are not played as voicemail messages.

Claim 42

The Applicant amends claim 42 to further specify that the server based greeting system is a server based voicemail greeting system which handles voicemail greetings. As Schwartz fails to disclose the use of voicemail greetings, the Applicant submits that the rejection of claim 42 should be withdrawn.

Claim 43

The Applicant refers the Examiner to the arguments presented above with regard to claim 40, and submits that claim 43 is allowable for at least the same reasons stated above.

Claim 44

The Applicant refers the Examiner to the arguments presented above with regard to claim 41, and submits that claim 44 is allowable for at least the same reasons stated above.

IV. Conclusion

In view of the above, reconsideration and allowance of this application are now believed to be in order, and such actions are hereby solicited. If any points remain in issue which the Examiner feels may be best resolved through a personal or telephone interview, the Examiner is kindly requested to contact the undersigned at the telephone number listed below.

The USPTO is directed and authorized to charge all required fees, except for the Issue Fee and the Publication Fee, to Deposit Account No. 19-4880. Please also credit any overpayments to said Deposit Account.

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